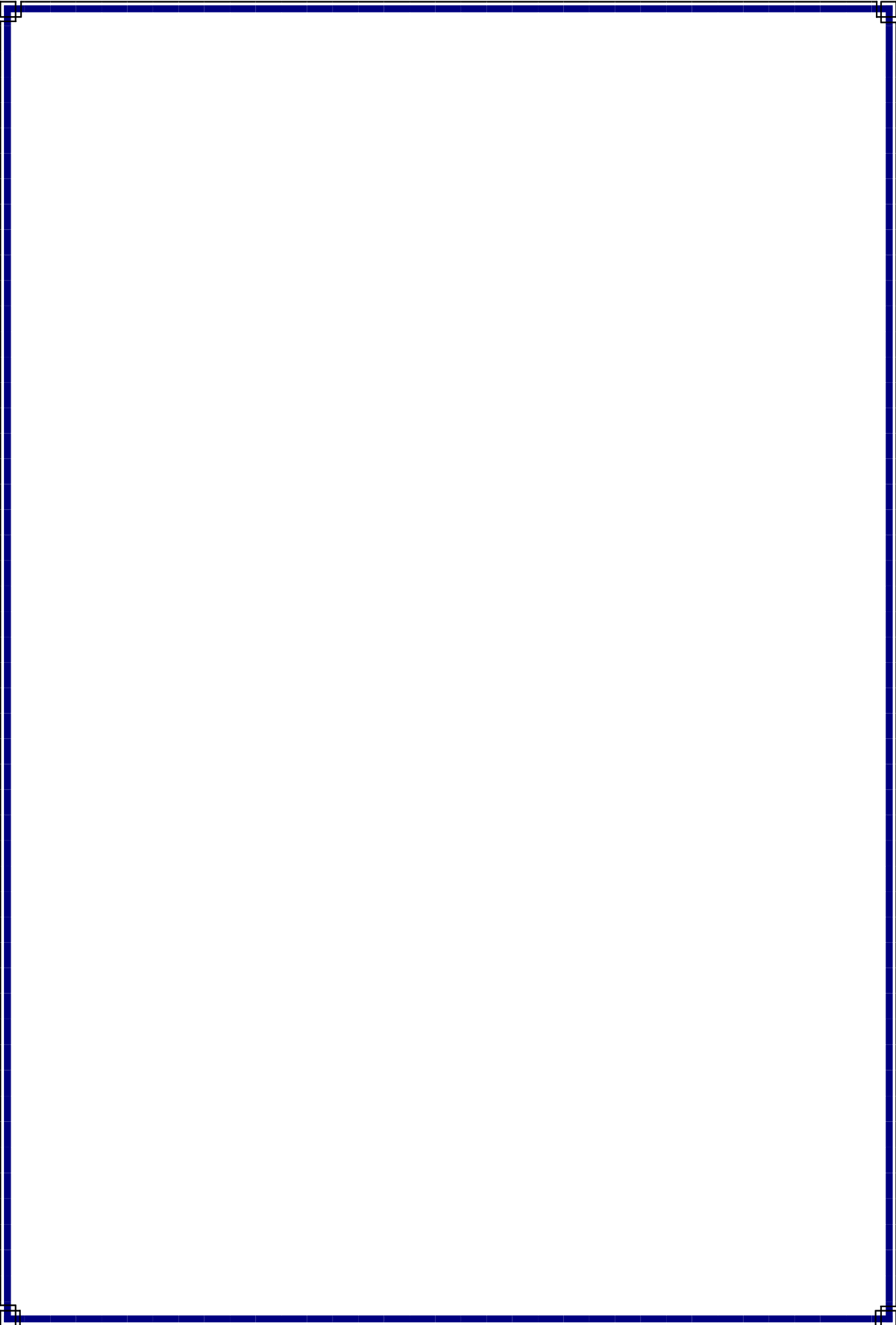


ADMISSIONS AND CONFESSIONS

Relevancy in Criminal Cases

Paper presentation by-
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ADMISSIONS AND CONFESSIONS **– Relevancy in Criminal Cases**

Admissions in Evidence Act refer to relevant statements made in civil cases, while confessions specifically pertain to acknowledgments of guilt or substantial admissions of facts in criminal cases.

Admission, as per section 17 of the Indian Evidence Act, encompasses statements that can be oral, documentary or in electronic form (added by the Information Technology Act, 2000). These statements imply an inference regarding a fact in question or a relevant fact and are made by individuals under specific circumstances outlined later in the Act.

The definition clarifies that evidence can take different forms, and its admissibility is contingent upon satisfying the conditions outlined in sections 18 to 23 of the Indian Evidence Act. Interestingly, colloquially, the term 'confession' is often used to denote adverse statements made by a competent party, but it falls within the scope of admission. Admission is a broader term that encompasses confessional statements. Although the Act does not explicitly define 'confession,' the conditions for its relevance can be found in sections 24 to 30.

1. **Admission under Indian Evidence Act**
2. **Confession under Indian Evidence Act**
3. **Differences between Admissions and Confessions in Evidence Act**
4. **Conclusion**

ADMISSION UNDER INDIAN EVIDENCE ACT

Statements that attribute liability based on relevant facts are known as admissions. Admissions need to be conclusive and unambiguous, leaving no room for doubt. The Hon'ble Supreme Court established this principle in the case of **Chikham Koteswara Rao v C Subbarao**. Admissions serve as prima facie evidence. Still, they are not considered as conclusive proof.

Admissions can take the form of either formal or informal statements

Formal admissions, also called judicial admissions, are made during legal proceedings. On the other hand, informal admissions occur in the ordinary course of

life. Judicial admissions are admissible under Section 58 of the relevant Act and carry substantive weight.

They serve as a waiver of proof, meaning that further evidence is not required to establish their validity unless specifically requested by the court. In **Nagindas Ramdas v Dalpatram Ichharam**, the Hon'ble Supreme Court explained that if admissions are true and unambiguous, they hold significant evidentiary value as the best proof of the facts admitted.

Informal or casual admissions encompass any written or oral statements made by the involved party regarding the facts of the case.

Moreover, a person's conduct can also be considered as an admission. In the **Australian case of Mayo v Mayo**, a woman registered the birth of her child without disclosing the father's name or profession. The court inferred that either she was unaware of the father's identity or acknowledged the child's illegitimacy. In either scenario, there is an admission of adultery, which constitutes admissible evidence.

SECTIONS 18, 19 & 20 OF THE INDIAN EVIDENCE ACT

Parties to the Suit (Section 18)

Any statements made by parties involved in the lawsuit that infer a relevant fact or a fact in question are considered relevant. However, in the case of defendants, the admission of one defendant does not bind the co-defendants, as it would be unjust for the plaintiff to succeed against all defendants based solely on the admission of one. Conversely, in the case of plaintiffs who share a common interest, the admission of one plaintiff is binding on the co-plaintiffs, as established in the case of *Kashmira Singh v State of MP*.

Agents of Parties

Actions performed by an agent in the ordinary course of business are treated as if they were performed by the principal themselves (*qui facit per alium, facit per se*) according to the principles of agency law. Therefore, if an agent is explicitly or implicitly instructed to make an adverse statement, that statement becomes relevant. It is important to note that this section does not include lawyers.

Statements in Representative Character

Individuals who sue or are sued in a representative capacity, such as trustees, administrators, executors, etc., are subject to this provision. Statements made in their personal capacity are not considered admissions, but if made in their representative capacity, they are deemed admissions.

Statements of Third Parties

- a) Persons with a proprietary or financial interest in the subject matter: Statements made by individuals who possess a direct interest, either proprietary or financial, in the subject matter are relevant, provided that their statements are related to their specific interest.
- b) Predecessor in the title: If the parties involved in the lawsuit have derived their interest in the subject matter from a previous owner, the statements made by that previous owner are admissible regarding the property itself but not concerning the parties or the new owner.

Section 21

This section pertains to the proof of admission. It states that an admission, evidence against the party who made it, cannot be proved by that party but must be proved against them. In the case of **Rv Petcherini**, Crompton J explained this concept further.

He stated that declarations made by an individual accompanying an act can be considered as evidence. Still, declarations made days or weeks before the relevant transaction cannot be used as evidence. Allowing such declarations as evidence would enable individuals to create grounds for escaping the consequences of their wrongful acts through strategic declarations.

However, an admission can be proved in favour of the party who made the statement if that party has deceased. This falls under Section 32 of the Indian Evidence Act, and the deceased party's representatives can prove the statement. Additionally, if the statement relates to a bodily feeling or state of mind, the person making the admission can also provide proof of it.

The state of mind should be substantiated with appropriate conduct since a person genuinely experiencing pain would behave differently from someone faking it.

Furthermore, certain other relevant statements can be proved by the party making them, such as when the statement itself is a fact in issue or part of the resgestae.

Sections 22 and 22A

Section 22, in conjunction with Section 65 and the addition of Section 22A through the Information Technology Act, 2000, establishes that oral admissions regarding the content of documents or electronic records are irrelevant unless the question pertains to the authenticity or forgery of the document or record.

Section 23

In civil cases, it is considered irrelevant when a statement or admission is made without prejudice. This means that both parties have agreed to treat that admission as confidential, and no evidence needs to be presented regarding it.

The purpose of this section is to encourage compromise between parties and avoid litigation. It safeguards any admissions made under the without prejudice principle, whether expressly or impliedly stated. They cannot be disclosed in court without the consent of both parties involved in the suit.

In the case of **Paddock v Forrester**, a letter written by one party was marked without prejudice. Although the reply to the letter was not explicitly marked as such, it was deemed inadmissible by the court. Only those admissions falling under the scope of Section 126 are required to be disclosed by lawyers.

CONFESSION UNDER INDIAN EVIDENCE ACT

The term “confession” is not explicitly defined in the Indian Evidence Act. However, confessions fall under the broader category of “admission” defined in Section 17 of the Act. Therefore, the definition of admission provided in Section 17 also applies to confessions. In civil cases, a relevant statement is considered an admission, while in criminal cases, a relevant statement is regarded as a confession.

In the case of **Palvinder Kaur v State of Punjab**, the Hon’ble Supreme Court upheld the decision of the Privy Council in **Pakala Narayan Swami v Emperor** and highlighted two essential points regarding confessions.

- Firstly, a confession must either admit guilt explicitly or substantially admit to all the facts.
- Secondly, a statement that contains a mixture of confessional and exculpatory statements, where the exculpatory part leads to an acquittal, cannot be considered a valid confession.

The court cannot selectively remove the exculpatory part from a statement and base its decision solely on the inculpatory part.

Similar to admissions, confessions can be either judicial or extra-judicial. In the case of **Sahoo v State of UP**, the accused was heard confessing to the murder of his own daughter while speaking to himself. This was deemed a relevant confession that could be admitted as evidence.

Section 24

Section 24 of the Indian Evidence Act identifies certain confessions as irrelevant. These include confessions obtained as a result of inducement, threat or promise, particularly when made to a person in authority.

To be admissible, a confession must meet certain criteria: it must pertain to the charge in question and offer some worldly benefit or advantage. Confessions that are not freely given are considered false under the law.

A government official is regarded as a person in authority due to their ability to influence the course of prosecution, as established in the case of **R v Middleton, 1974 QB 191 CA**. The promised benefit must be reasonable and capable of convincing the accused that they would gain an advantage from it, while any threatened harm should be temporal.

Sections 25 to 30 of the Indian Evidence Act specifically address confessions made to the police.

Section 25

Section 25 of the Indian Evidence Act states that no confession made to a police officer is provable or relevant. This provision is in place to safeguard the rights of the accused, as confessions obtained under police custody may be coerced or extracted through torture.

However, if a person confesses in the presence of someone other than a police officer, it is not rendered irrelevant solely due to the presence of a policeman. This section only applies to confessional statements, whether orally or in a First Information Report (FIR). Other admissions can still be presented as evidence to establish facts or facts.

Section 26

Section 26 is similar to the preceding section and asserts that no confession made by a person in police custody is admissible as evidence. This provision recognises that false confessions may be obtained under duress or fear, not limited to interactions with police officers alone.

Police custody encompasses not only confinement within the walls of a police station but also situations where the police exercise control over an individual in their home, car or public places. The only exception to this rule is when the person makes a confession in the presence of a Magistrate, in which case it becomes admissible.

Section 27

Section 27 establishes an exception to Section 26. It states that if a statement leads to discovering a fact related to the crime, it becomes admissible as evidence, even if it was obtained through coercion.

To validate the authenticity of such recoveries, they should occur in the presence of witnesses. In the case of **Mohan Lal v Ajit Singh**, the accused indicated the location of stolen goods upon arrest, and the items were found within six days. The court deemed this statement relevant, and the accused was held liable for murder and robbery based on the evidence obtained.

However, a statement made by an accused cannot be used against other co-accused, as determined in the case of **Satish Chandra Seal v Emperor**.

Section 28

Section 28 stipulates that a subsequent confession becomes relevant if the inducement, threat or promise, as defined in Section 24, is removed. In such cases, the confession is considered free and voluntary.

Section 29

Unlike without-prejudice statements in admissions, a confession made under a promise of secrecy is admissible in court. The focus of the law is on whether the confession is voluntary, so even if deception, fraud, intoxication or the answering of unauthorised questions are involved, the confession can still be considered admissible.

In the case of **R v Maqsud Ali**, two accused individuals were left alone in a room where they believed they were unobserved, but secret tape recorders had been placed in the room. The recorded confessions were deemed relevant and admissible.

Section 30

Section 30 of the Indian Evidence Act applies when multiple individuals are jointly accused of the same offence. In such cases, if one of the co-accused makes a confession implicating themselves and other individuals, the court can consider that confession as evidence against both the accused making the confession and their co-accused.

In the case of **Kashmira Singh v State of MP**, a person named Gurbachan, along with three others, was accused of murdering a child. Through Gurbachan's confession, the prosecution constructed the narrative of the crime, leading to the conviction and death sentence of both Gurbachan and Kashmira Singh.

However, on appeal to the Hon'ble Supreme Court, Kashmira Singh was acquitted as an uncorroborated confession was deemed insufficient to deprive a person of their right to life.

DIFFERENCES BETWEEN ADMISSIONS AND CONFESSIONS IN EVIDENCE ACT

It is important to note some key differences between admissions and confessions in Evidence Act. While the definition of admission also encompasses confessions, admissions are a broader concept.

Confessions typically pertain to admissions made in criminal cases, while admissions refer to relevant statements made in civil cases. Confessions, as established in cases such as *Pakala Narayan Swami v Emperor* and *Palvinder Kaur v State of Punjab*, must explicitly admit guilt or substantially admit the facts from which guilt can be inferred rather than merely suggesting a fact or inference.

An admission can be in favour or against the interest of the party making it, as stated in Sections 21 and 32 of the Indian Evidence Act. On the other hand, a confession is always against the interest of the party making it.

An admission can be made anywhere, even in police custody or in the presence of a person in authority, and it can be the result of inducement. However, confessions have different requirements for relevancy, and these conditions may not apply in such situations.

A confession is binding on co-accused individuals, whereas this is not the case with admissions. While a third party can make an admission, a confession is made by the person who committed the crime. Finally, admission is not considered conclusive proof, but a confession is generally considered satisfactory evidence of the accused's guilt.

Aspect	Admission	Confession
Definition	Relevant statement made in a civil case	Admission made in a criminal case
Scope	Broader term, includes confessions	Specific term referring to admissions in criminal cases
Nature	Can be in favor or against the party's interest	Always against the party's interest
Requirements	No specific requirements	Must admit guilt or substantially admit facts of the crime
Applicability	Can be made anywhere, including police custody	Limited applicability in specific conditions
Binding on co-accused	Not binding on co-accused individuals	Binding on co-accused individuals
Source	Can be made by the party or third party	Made by the person who committed the crime
Proof	Not considered conclusive proof	Generally viewed as satisfactory proof of guilt

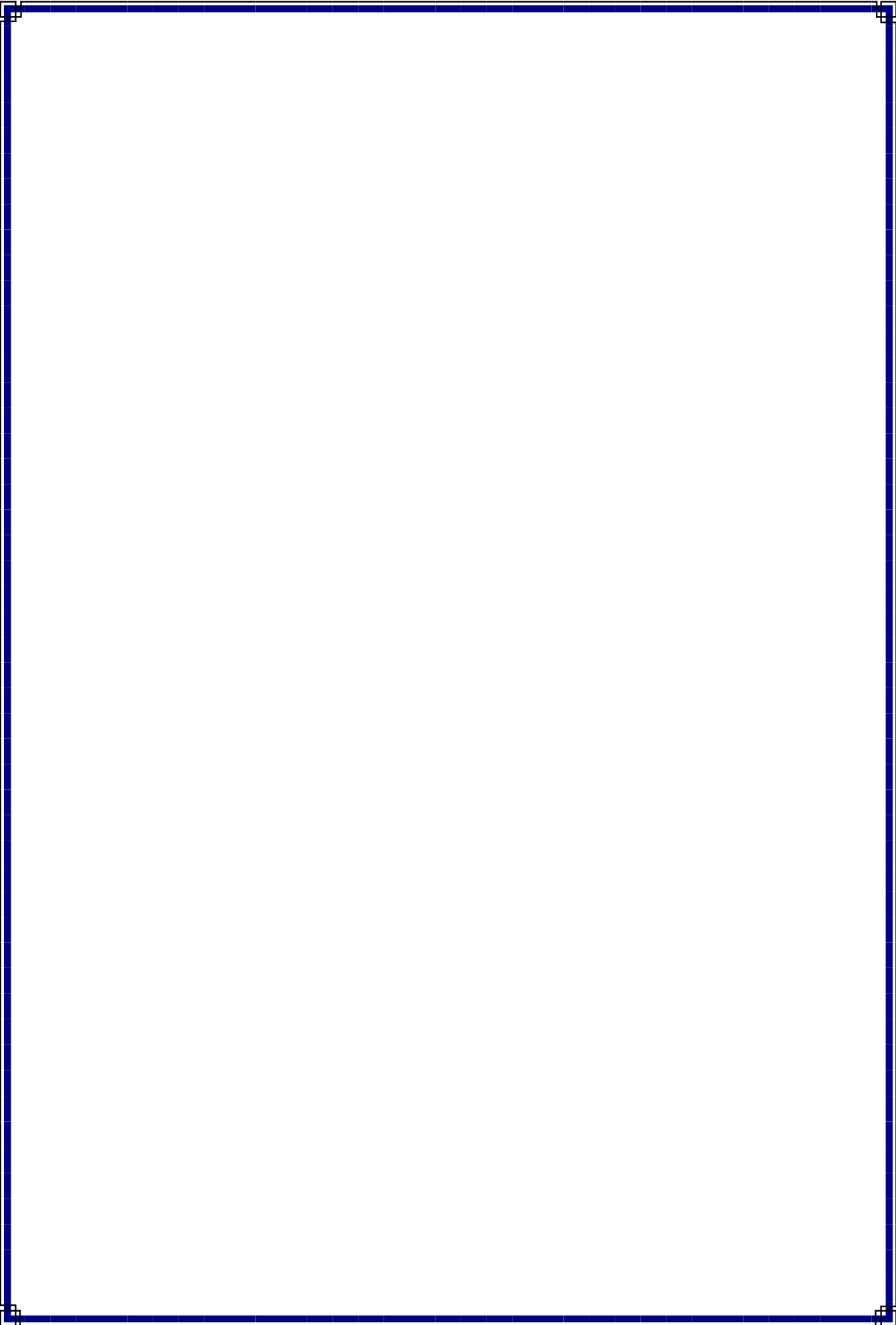
CONCLUSION

Admissions and confessions in Evidence Act play significant roles in the legal landscape, particularly in civil and criminal cases. While both admissions and

confessions in Evidence Act involve relevant statements, they have distinct characteristics and implications.

Admissions are broader in scope, encompassing statements made in civil cases. They can be in favour or against the party making them and can be made anywhere, even in the presence of authorities or during police custody. Admissions may or may not be conclusive proof and can be made by the party involved or third parties.

On the other hand, confessions specifically refer to admissions made in criminal cases. They entail acknowledging guilt or substantial admission of facts leading to guilt. Confessions are always against the interest of the confessing party and are binding on co-accused individuals. They hold a higher evidentiary value and are generally considered satisfactory proof of the accused's guilt.



Confession of Co-accused

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CONFESSION OF CO-ACCUSED

The text of Section 30 of the Indian Evidence Act reads as follows—

“Consideration of proved confession affecting person making it and others jointly under trial for same offence- When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person makes such confession.”

When more than one person is jointly tried for the same offence, then in such cases the confession of one of the accused is found to be admissible as evidence, must be taken as a confession against all other accused persons who are being jointly tried.

Where the confession of one accused is accepted as evidence by the court, the other accused persons in the case don't have opportunity to cross-examine such accused, and hence, this is entirely contradictory to the principle of jurisprudence according to which it is opposed to using a statement against a person without giving him the opportunity to cross-examine the person making the statement.

Section 30 of the Indian Evidence Act is in the nature of empowering the Court to take into consideration a confession made by one of the accused against the others when they are jointly tried. On one hand, the confession, it is voluntary and is considered true and admissible by the court, of an accused is a very strong piece of evidence against himself, however, on the other hand, it is a weak piece of evidence against other co-accused. In its strict legal sense, the confession of a co-accused does not come within the definition of evidence. The reason behind this is that the person who is making such confession hasn't stepped into the witness box and that his testimony has not been subjected to cross-examination, thus such confession is, in reality, a type of ex-parte evidence against other accused persons.

While deciding the reliability which can be placed on by the court in the confessions by the co-accused, the Hon'ble Supreme Court has held in the case of Hari Charan Kurmi v. State of Bihar that the confession of a co-accused cannot be treated as substantive evidence, and can be pressed upon only when the Court is

inclined to accept other evidence, and feels the necessity of seeking an assurance in support of its conclusions deductible from other evidence.

In criminal cases, where evidence which is adduced are insufficient to prove a person guilty, such person cannot be held guilty relying on the confession of a co-accused. The presumption of innocence comes to his rescue and compels the court to render the verdict that the charge is not proved and accused is not guilty.

The word “may” in this section is very important to interpret. The presence of this term indicates that such a confession cannot be said to be “evidence” in its technical sense and thus can only support a conviction. Rather, the section gives discretion to the Court either to use it against a co-accused or not to do so. The same was reiterated by Jackson, J. in the case of R. v. Chandra.

Evidentiary value of a confession U/S 30 of IEA—

The Hon’ble Supreme Court in the case of Pancho v. State of Haryana held that confessions of a co-accused aren’t the substantive piece of evidence and that it can only be used to confirm the conclusion drawn from other evidence in a criminal trial.

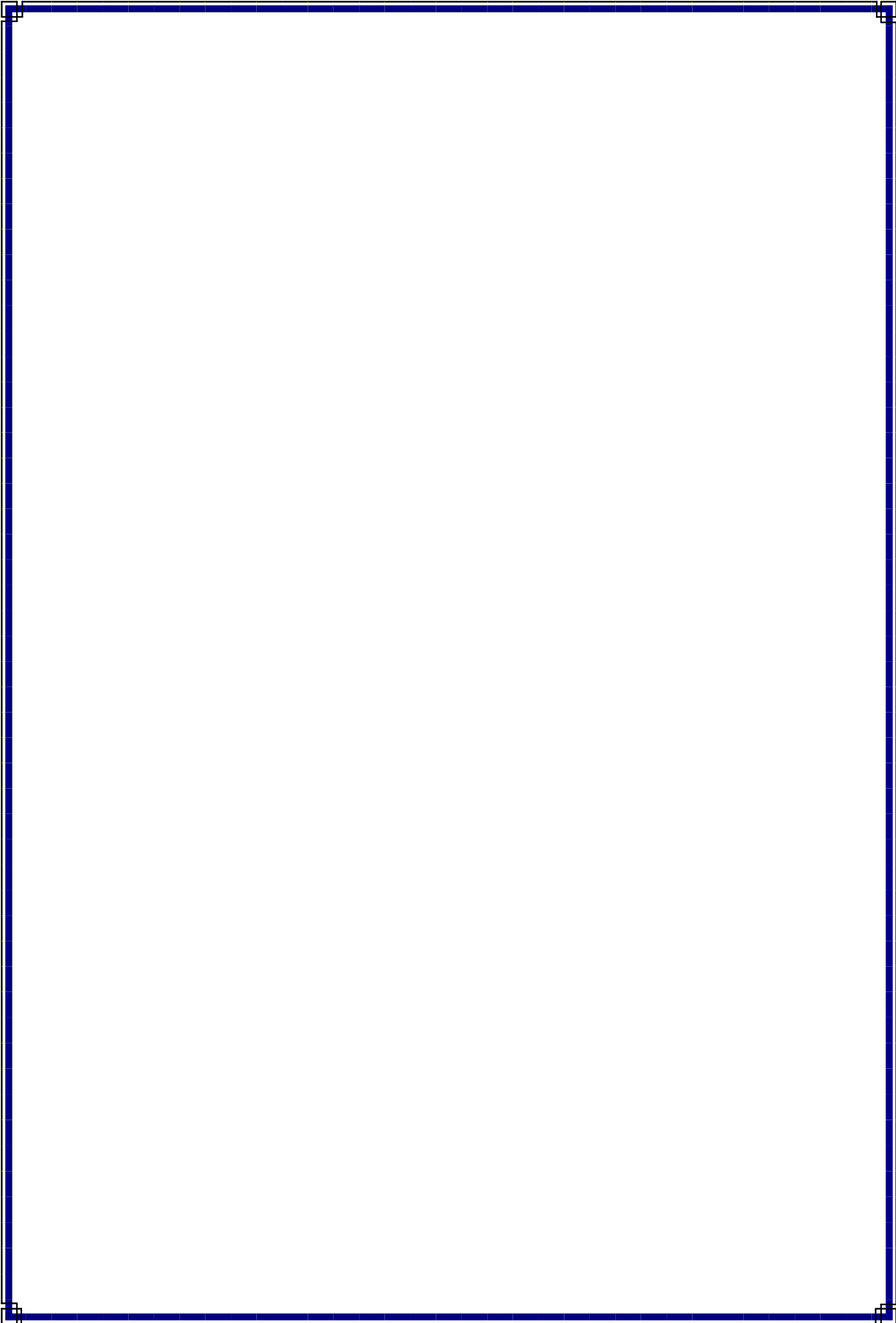
The court further stated that the trial court cannot begin on the basis of the confession of the co-accused to form its opinion in a case. Rather, the courts must analyse all the evidence which are being adduced, and on being satisfied with the guilt of accused, might turn to the confession in order to receive assurance to the conclusion of guilt which the court has reached on the said evidence. Referring to previous Hon’ble Apex court verdicts, the court said it is not obligatory to take the confession into account and that it is the discretion of the court.

CONCLUSION

On the whole, Section 30 has introduced an innovation of a serious nature and is capable of causing a miscarriage of justice, unless it is properly understood and applied. The Hon'ble Apex Court has in various cases held that this provision must be very strictly construed so as to avoid doing injustice. Justice Reilly once said, that the discretion which the courts have been empowered with by this provision must be exercised very cautiously and with the greatest caution and with care, so as to make sure that its real intent is observed, and the probability of doing injustice can be removed.

Extra Judicial Confession

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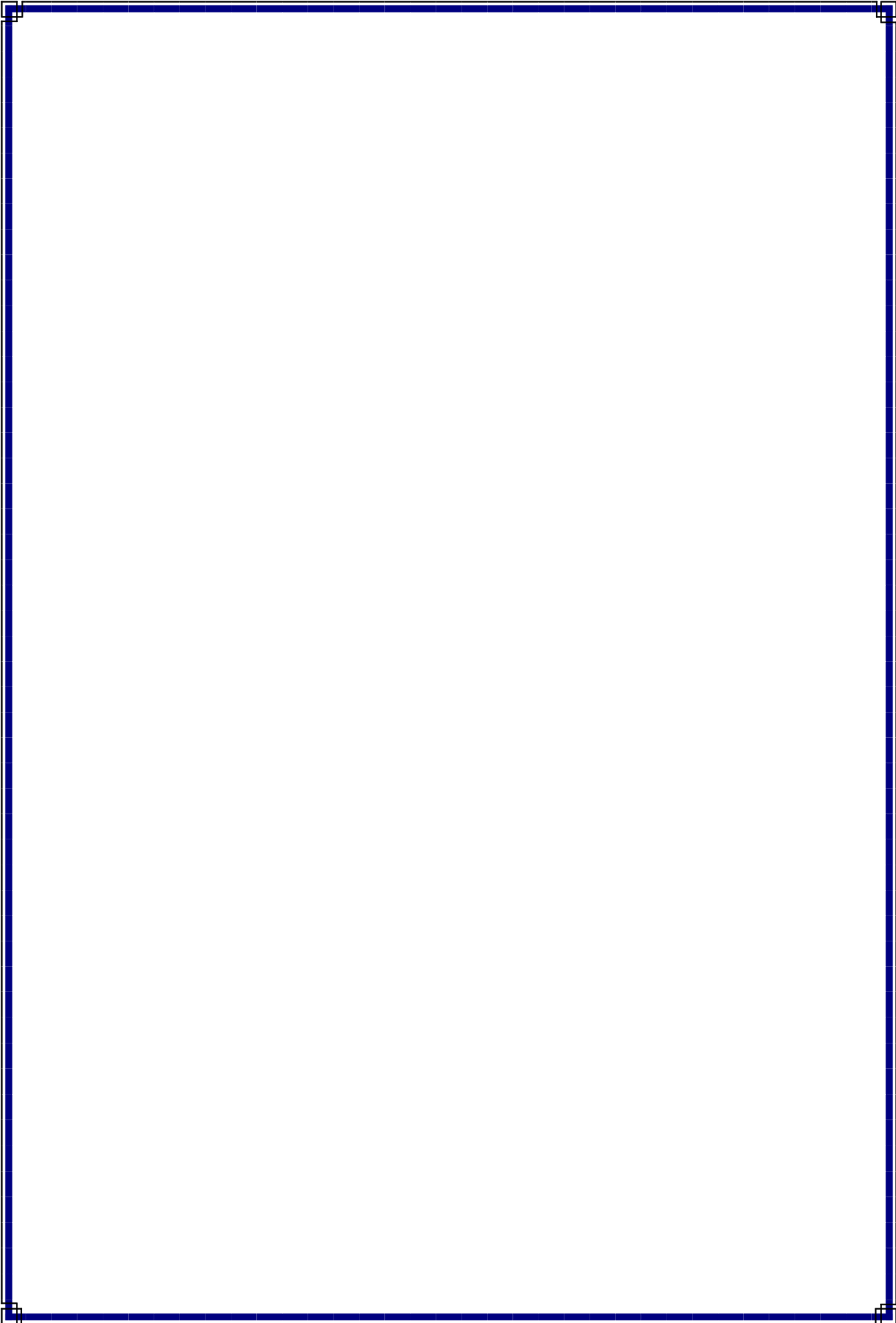


EXTRA JUDICIAL CONFESSION

It may happen that an accused may give his confession to his family or to a stranger. Such confession is known as extra judicial confession. Indian Evidence Act nowhere talks about extra judicial confession. An extra judicial confession may be defined as a confession made outside the court or not in the immediate presence of the magistrate. Such confession are given to a private person. A confession made to oneself is also considered as an extra judicial confession.

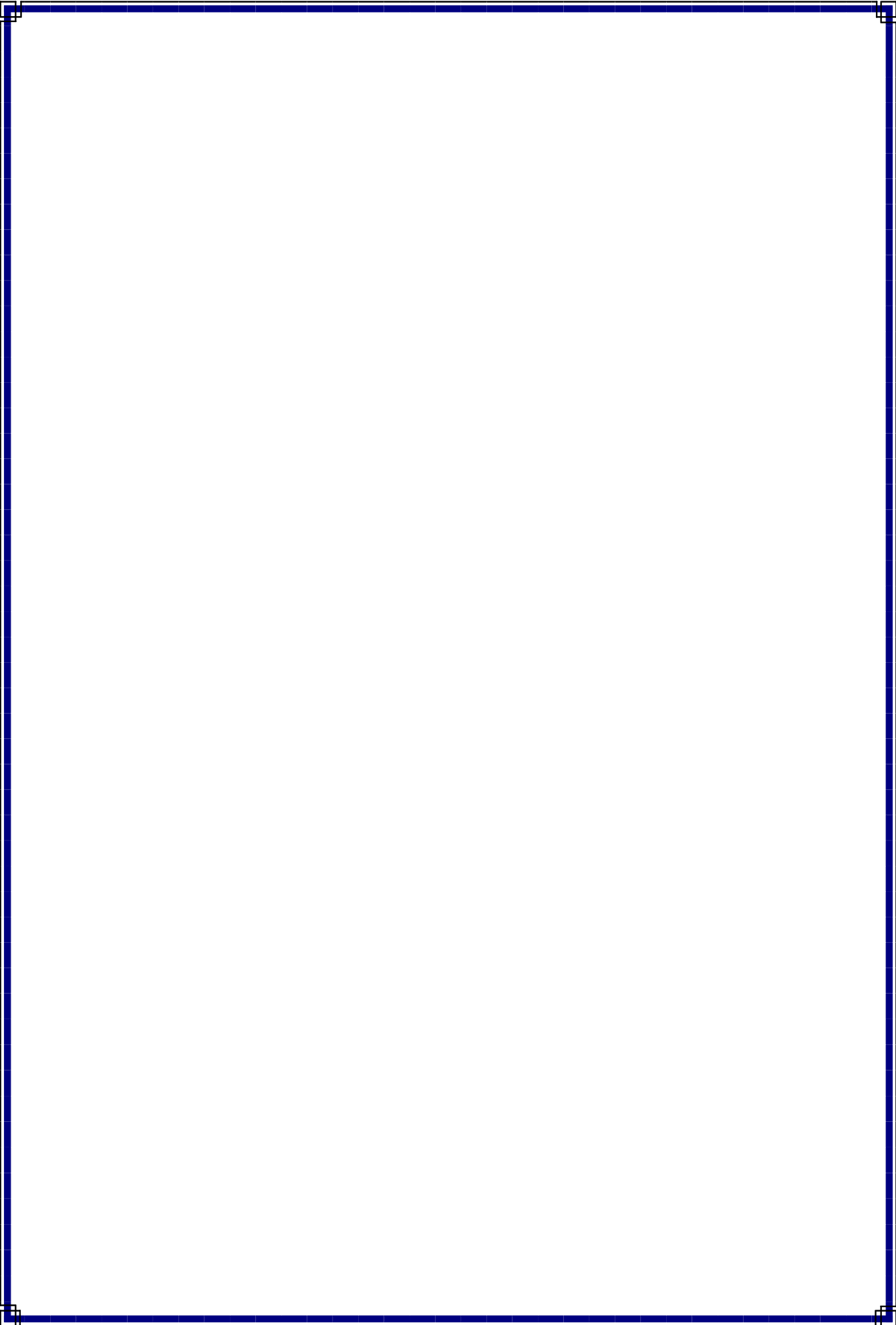
Since such confession are given outside the court, they required a lot of corroboration because they are considered as a weak piece of evidence. Extra judicial confession has less evidentiary value than judicial confession. In such confession, there is a wide scope of various interpretations and therefore the court must ensure that the confessions are properly interpreted. Such confessions are subjected to cross-examination so as to extract the relevant information and also to ensure that such a confession is truthful and is made voluntary by the accused.

In the case of C.K. Raveendran v State of Kerala the Supreme Court said that it is difficult to rely upon extra judicial confession as the exact words or even the word as nearly as possible have not been reproduced. Such statement cannot be said voluntary so that the extra judicial confession has to be excluded from the preview of consideration to bring home the charges.



Retracted Confession

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WHAT IS RETRACTED CONFESSION IN THE INDIAN EVIDENCE ACT

A retracted confession is a statement made by an accused person before the trial begins, by which he admits to having committed the offence but which he rejects at the trial.

Evidentiary Value of Retracted Confession

It is unsafe to base the conviction on a retracted confession unless it is corroborated by trustworthy evidence. Here are two important cases related to the evidentiary value of a retracted confession.

Bharat vs State of UP, 1971

Justice Hidayatullah observed that a court might take into account the retracted confession. But it must look for the reasons for the making of the confession as well as for its retraction. And must weigh both of them to determine whether the retraction affects the voluntary nature of the confession or not.

Manjit Singh vs CBI, 2011

Considering the question of whether retracted Confession of the co-accused could be relied upon to convict the accused, the court held that the retracted statements could be used against the accused as well as co-accused, provided that such statements should be truthful and voluntary when made.

In the said case, two accused persons made confessional statements, and subsequently, they retracted from their statements.

The court observed that:

A confessional statement given under section 15 of the Terrorist and Disruptive Activities Act (TADA) shall not be discarded merely for the reason that the same has been retracted.

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